REMARKS

This Amendment and Reply is intended to be completely responsive to the Non-Final Office Action mailed July 5, 2007. Applicant respectfully requests reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claim 20 has been canceled without prejudice to further prosecution on the merits. Claim 16 has been amended. New Claims 39-41 have been added. No new matter has been added. Accordingly, Claims 16-19 and 21-41 will be pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 102(b)

On pages 2 through 4 of the Detailed Action, the Examiner rejected Claims 16-36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,179,706 to Yoshinori et al. ("Yoshinori et al."). This rejection should be withdrawn because Yoshinori et al. fails to disclose, teach or suggest the claimed invention.

For example, independent Claim 16 (as amended) recites a "vehicle seat" comprising, among other elements, "a usable surface having a first part on the backrest and a second part on the seat part, the first part being connected to the second part by a flexible connecting element; . . . an air duct extending between [an] air supply opening and the usable surface, the air duct having at least two air duct arms and a distributing section; . . . [a] ventilator coupled to the side of the backrest, and wherein the flexible connecting element makes up part of the air duct and is directly adjoined by the distributing section of the air duct."

Also, independent Claim 24 recites a "vehicle seat" comprising, among other elements, "an air duct configured to direct air between [an] air supply opening and [a] usable surface; and wherein the air duct has a first cross-sectional area at a first position and a second cross-sectional area at a second position, the first position being closer to the air

supply opening than the second position and the second cross-sectional area being less than the first cross-sectional area."

Yoshinori et al. fails to disclose, teach or suggest such vehicle seats. Rather, Yoshinori et al. discloses a vehicle seat that includes a "seat air conditioner 1" having a "blowing unit 3 connected to a conventional air conditioning unit (not shown) mounted on a vehicle through a duct (not shown)." See Yoshinori et al., col. 3, lines 36-38. The "blowing unit 3" sucks air from the duct and blows the air towards the vehicle seat. Id.

Referring to the subject matter of independent Claim 16 in particular, Yoshinori et al. discloses a "blowing unit 3" that is mounted under a "seat cushion 2A." See Yoshinori et al., Figures 1, 6 and 8. Independent Claim 16 (as amended), however, requires the ventilator to be coupled to the side the backrest. Furthermore, Yoshinori et al. does not disclose, teach or suggest a flexible connecting element that is part of the air duct and is directly adjoined by a distributing section of the air duct. In contrast, according to Yoshinori et al., the flexible element is in air duct 7, which is away from the distributing passages 12 of the air duct. Such a configuration is disadvantageous because it influences the air distribution in the seat and creates additional pressure losses.

Referring to the subject matter of independent Claim 24, Yoshinori et al. discloses that "each of the distribution passages 12 and the communication passages 13 has 10 mm in width and 20 mm in depth." See Yoshinori et al., col. 4, lines 17-19. The figures always show each of the "distribution passages 12" and each of the "communication passages 13" as having a uniform cross section along their respective lengths. See Yoshinori et al., Figures 1-2. In other words, Yoshinori et al. discloses that the air passages maintain the same cross-sectional area (i.e., a cross-sectional area that is 10 mm by 20 mm) along their entire length. This teaches away from the subject matter of independent Claim 24, which requires the air duct to have a first cross-sectional area that is greater than a second cross-sectional area – the first cross-sectional area being closer to an air supply opening. The present Application provides that a reduction in cross-sectional area in the air ducts can be provided, for example, to allow for "the counterpressure in the arms [to] continuously increase" to improve the air flow onto the seat surface." See e.g., Specification, paragraph [0022], Figures 4 and 5.

Nevertheless, the Examiner concluded that Yoshinori et al. teaches the vehicle seat recited in independent Claims 16 and 24. The Examiner has provided no support for such a contention other than to make a generic statement that Yoshinori et al. teaches the claimed subject matter. Specifically, the Examiner has failed to identify which features in Yoshinori et al. teach the subject matter of independent Claims 16 and 24. Applicant submits that the only evidence in the record of a teaching of such a feature is contained in the present Application. Of course, any reliance on the present Application would constitute impressible hindsight reasoning.

Accordingly, Applicant respectfully requests withdrawal of the rejections of Claims 16 and 24 since at least one element of such claims is not disclosed, taught or suggested by Yoshinori et al. Claims 17-19, 21-23 and 25-36 depend variously from Claims 16 and 24 and are allowable therewith for at least the same reasons set forth above.

In further regards to dependent Claims 17-19, 21-23 and 25-36, Applicant submits that, in addition to the reasons discussed above regarding independent Claims 16 and 24, Yoshinori et al. also fails to disclose certain additional elements recited in the dependent claims.

By way of example, Yoshinori et al. fails to disclose, teach or suggest "wherein the ventilator is configured to direct airflow from the usable surface to the air supply opening," as recited in dependent Claim 18. The present Application provides that this may be achieved using "a sucking fan instead of a blowing fan." See Specification, paragraph [0019]. In contrast, Yoshinori et al. only teaches the use of a "blower unit 3" that "forcibly blows the conditioned air toward the seat 2" so that air "is blown out through the seat cover 10 toward the passenger." See Yoshinori et al., col. 3, lines 45-46 and col. 4, lines 45-47. Accordingly, dependent Claim 18 is further patentable over Yoshinori et al.

Also, Yoshinori et al. fails to disclose, teach or suggest "compensation elements coupled to the second side of the foam material, the compensation elements configured to deform so that the cross-sectional area of the at least a portion of the air duct is maintained when the vehicle seat is occupied," as recited in dependent Claim 28. One nonexclusive exemplary embodiment of a compensation element is disclosed in the present Application as a

"foam web 13." See e.g., Specification, paragraph [0028], Figures 11 and 12. In contrast, Yoshinori et al. teaches that a "urethane pad 8," by itself, is a "shock absorbing member." See Yoshinori et al., col., 1, lines 63-66 and col. 3, lines 51-60. The back surface of the "urethane pad 8" of the "seat back 2B" and the bottom surface of the "urethane pad 8" of the "seat cushion 2A" are both shown as substantially continuous and flat surfaces without any "compensation elements" coupled thereto. See Yoshinori et al., Figures 1, 6 and 8. Accordingly, dependent Claim 28 is further patentable over Yoshinori et al.

Claim Rejections – 35 U.S.C. § 103(a)

On pages 4 and 5 of the Detailed Action, the Examiner rejected Claims 36-37 under 35 U.S.C. § 103(a) as being unpatentable over Yoshinori et al. Applicant notes that the Examiner did not specifically address dependent Claim 38 in the Detailed Action. Applicant believes that the Examiner intended the rejection under 35 U.S.C. § 103(a) to be for Claims 37-38 rather than for Claims 36-37. If this is incorrect, Applicant requests the to Examiner clarify this discrepancy in the next communication. Nonetheless, this rejection should be withdrawn because Yoshinori et al. fails to disclose, teach or suggest the claimed invention.

For example, independent Claim 37 recites a "method of controlling the climate of a vehicle seat" comprising, among other steps, "operating [a] ventilator at a first speed if [an] actual temperature [of the interior of the vehicle] exceeds [a predetermined] temperature limit; and operating the ventilator at a second speed if the actual temperature does not exceed the temperature limit."

In rejecting independent Claim 37, the Examiner simply stated that "Yoshinori et al. teaches an obvious use of the structures as claimed" without providing any support for such a contention. Specifically, the Examiner has failed to identify which features in Yoshinori et al. teach operating a ventilator at different speeds based upon a sensed temperature within the vehicle interior. Yoshinori et al. simply discloses that the "blower unit 3" is connected to a conventional air conditioning unit without providing any details on the operation of "blowing unit 3" or its "motor 6." See Yoshinori et al., col. 3, lines 41-42.

Applicant respectfully request withdrawal of the rejection of independent Claims 37 since at least one element of such claim is not disclosed, taught or suggested by Yoshinori et al. Claim 38 depends from independent Claim 37 and is allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in such claim. Reconsideration and withdrawal of the rejection of Claims 37-38 is respectfully requested.

New Claims

Applicant has added new independent Claim 39 and dependent Claims 40-41 to provide claims of varying scope. Independent Claim 39 is similar in many respects to previously submitted independent Claim 16. Applicant believes that independent Claim 16, as previously presented, was patentable over the art of record, and specifically Yoshinori et al. Applicant is resubmitting independent Claim 16 with a clarifying amendment as new independent Claim 39. Specifically, in independent Claim 39, Applicant has added the term "lateral" in front of the term "side" to clarify that the ventilator is supported at the actual side of the vehicle seat rather and not just a bottom side of the seat part and/or a back side of the backrest.

In contrast to the subject matter of independent Claim 39, Yoshinori et al. discloses that the "blowing unit 3" of the "seat air conditioner 1" is centrally mounted underneath the "seat cushion 2A" (i.e., at the bottom side of the seat cushion). See Yoshinori et al., Figures 1, 6 and 8. Independent Claim 39, however, requires the ventilator to be supported at a lateral side of either the seat part or the backrest. The present Application provides that "[t]his lateral arrangement – similar to an airbag module – makes it possible to realize a climatic seat 30 with a very small construction depth – i.e. the construction of the backrest 31 and of the seat part 32." See Specification, paragraph [0020].

Accordingly, Applicant respectfully requests allowance of new independent Claim 39 and new dependent Claims 40-41.

* * *

Applicant respectfully submits that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicant's claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicant respectfully puts the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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